

# Individuals with Disabilities Education Act (IDEA)

## Maintenance of Effort (MOE) Requirements

### Maintenance of Effort for School Districts:

**Requirement:** Sections 300.203 through 300.205 of the IDEA regulations set out the requirement for local school districts and special education cooperatives. A school district or cooperative may not reduce the amount expended to provide special education and related services to eligible students below the level of expenditures for the preceding fiscal year. The regulations define four ways that an entity can demonstrate that it has maintained effort:

1. by year-to-year comparison of total state and local special education expenditures;
2. by year-to-year comparison of the amount of expenditures of state and local funds on a per-pupil basis using Child Count data;
3. by year-to-year comparison of total special education expenditures of local funds only; and
4. by year-to-year comparison of the amount of expenditures of local funds only on a per-pupil basis using Child Count data.

**Exceptions:** A school district may reduce the level of expenditures for the following reasons:

1. the voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel;
2. a decrease in the enrollment of children with disabilities;
3. the termination of the obligation to provide an exceptionally costly program of special education and related services to a particular child; or
4. the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

With Exceptions 1, 3, and 4, the amount the district is allowed to reduce expenditures is a dollar-for-dollar amount based on the difference in costs to the district. For example, if a special education teacher with many years of experience who is earning \$50,000 per year retires and the district hires a new teacher who is earning \$30,000 per year as a replacement, the district would be allowed to reduce the special education expenditures by \$20,000. For Exception 2, the amount the district is allowed to reduce is based on a calculation of the per-pupil amount of expenditures. For example, if in year one the district had a child count of ten students and expended \$100,000, the per-pupil amount would be \$10,000. If in year two the district child count dropped to nine students, the district would have to expend \$90,000 to maintain effort. This level of expenditure would maintain the \$10,000 per-pupil amount.

**Calculation:** The MOE amount is based on total current special education expenditures in the funds listed below as reported on the annual Trustees' Financial Summary report. The MOE calculation isolates special education expenditures made from state and local revenue sources. The funds are:

FUND	COOP	DISTRICT	FUND	COOP	DISTRICT
01 General Fund		X	15 Misc Programs Fund	X	X
10 Transportation Fund	X	X	24 Metal Mines Tax Reserve Fund		X
13 Tuition Fund		X	25 State Mining Impact Fund		X
14 Retirement Fund	X	X	82 Interlocal Agreement Fund	X	X

**Cooperative Member Districts:** For districts that are members of a special education cooperative, the calculation of MOE is done at the cooperative level and is based on the sum of the expenditures for the member

districts and the cooperative expenditures. This method of calculating MOE protects Montana's very small schools from failing to maintain effort because of changes in enrollment. It is not uncommon for our very small schools to have a student with a disability one year and none the next, which leaves the district with no program to expend special education dollars.

**Result of Failure to Maintain Effort:** If a district or cooperative fails to maintain effort, it is required to repay to the United States Treasury from local funds an amount equal to the amount by which it did not maintain effort. The district or cooperative is offered an opportunity for a hearing before the Superintendent of Public Instruction to provide data that demonstrate that the MOE determination is incorrect.

## **Maintenance of State Financial Support:**

**Requirement:** Section 300.163 of the IDEA implementing regulations defines the requirement for maintenance of state financial support. Under this regulation, the state is not allowed to reduce the amount of funds made available for the provision of special education and related services below the amount made available in the preceding year.

**Exceptions:** There are no exceptions to this requirement at the state level.

**Calculation:** Each year, as a part of the Annual Application for Funds under the IDEA, the Office of Public Instruction (OPI) must certify the amount of funds made available by the state for providing special education and related services to students with disabilities in Montana. This amount includes funds made available to the OPI for special education; the Montana School for the Deaf and Blind; the Department of Corrections for services provided at Pine Hills, Riverside, and the adult prisons; and the Department of Public Health and Human Services for special education and related services provided at the Montana Developmental Center and the Montana State Hospital.

**Result of Failure to Maintain State Financial Support:** If the state does not maintain financial support, whatever the reason, the U.S. Department of Education is required to reduce the amount of funds provided to the state under the IDEA by an amount equal to the reduction in effort. For example, if the state made available \$1 million dollars less in the current fiscal year than was made available in the preceding fiscal year, the U.S. Department of Education would reduce the amount of Montana's IDEA allocation by \$1 million dollars.

## **IDEA Regulations:**

### **300.203 Maintenance of effort.**

(a) General. Except as provided in 300.204 and 300.205, funds provided to an LEA under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.

(b) Standard.

(1) Except as provided in paragraph (b)(2) of this section, the SEA must determine that an LEA complies with paragraph (a) of this section for purposes of establishing the LEA's eligibility for an award for a fiscal year if the LEA budgets, for the education of children with disabilities, at least the same total or per capita amount from either of the following sources as the LEA spent for that purpose from the same source for the most recent prior year for which information is available:

(i) Local funds only.

(ii) The combination of state and local funds.

(2) An LEA that relies on paragraph (b)(1)(i) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at least the same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which



information is available and the standard in paragraph (b)(1)(i) of this section was used to establish its compliance with this section.

(3) The SEA may not consider any expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA in determining an LEA's compliance with the requirement in paragraph (a) of this section.

#### **300.204 Exception to maintenance of effort.**

Notwithstanding the restriction in 300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:

(a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.

(b) A decrease in the enrollment of children with disabilities.

(c) The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child--

(1) Has left the jurisdiction of the agency;

(2) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or

(3) No longer needs the program of special education.

(d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

(e) The assumption of cost by the high cost fund operated by the SEA under 300.704(c).

#### **300.205 Adjustment to local fiscal efforts in certain fiscal years.**

a) Amounts in excess. Notwithstanding 300.202(a)(2) and (b) and 300.203(a), and except as provided in paragraph (d) of this section and 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by 300.203(a) by not more than 50 percent of the amount of that excess.

(b) Use of amounts to carry out activities under ESEA. If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.

(c) State prohibition. Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must *prohibit* the LEA from reducing the level of expenditures under paragraph (a) of this section for that fiscal year.

(d) Special rule. The amount of funds expended by an LEA for early intervening services under 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section.

#### **300.163 Maintenance of State financial support.**

(a) *General.* A State must not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

(b) *Reduction of funds for failure to maintain support.* The Secretary reduces the allocation of funds under section 611 of the Act for any fiscal year following the fiscal year in which the State fails to comply with the requirement of paragraph (a) of this section by the same amount by which the State fails to meet the requirement.

(c) *Waivers for exceptional or uncontrollable circumstances.* The Secretary may waive the requirement of paragraph (a) of this section for a State, for one fiscal year at a time, if the Secretary determines that—

(1) Granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

(2) The State meets the standard in § 300.164 for a waiver of the requirement to supplement, and not to supplant, funds received under Part B of the Act.

(d) *Subsequent years.* If, for any fiscal year, a State fails to meet the requirement of paragraph (a) of this section, including any year for which the State is granted a waiver under paragraph (c) of this section, the financial support required of the State in future years under paragraph (a) of this section shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.